



**MINUTES OF A REGULAR MEETING OF THE  
UPLAND PLANNING COMMISSION  
HELD WEDNESDAY, FEBRUARY 26, 2020  
AT 6:30 P.M.**

**CALL TO ORDER OF THE PLANNING COMMISSION SPECIAL MEETING**

*Chair Aspinall* called the Regular Meeting of the Upland Planning Commission to order in the Council Chambers of the Upland City Hall at 6:30 P.M.

**PLEDGE OF ALLEGIANCE**

The pledge of allegiance was led by *Commissioner Anderson*.

**ROLL CALL**

MEMBERS PRESENT: Commissioners Anderson, Brouse, Novikov, Walker, Vice Chair Schwary, and Chair Aspinall

MEMBERS ABSENT: None

ALSO PRESENT: Development Services Director and Planning Commission Secretary Dalquest, Contract Planning Manager Poland, Assistant Planner Winter, Associate Planner Hong, Senior Administrative Assistant Davidson, Deputy City Attorney Shah

**APPROVAL/MINUTES** January 22, 2020 and February 12, 2020

*Chair Aspinall* made corrections to the January 22, 2020 and February 12, 2020 meeting minutes.

Moved by *Vice Chair Schwary*, to approve of the minutes of the Planning Commission meeting of January 22, 2020 and February 12, 2020, as corrected.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote (5 – 0 – 1):

AYES: *Commissioners Anderson, Brouse, Walker, Vice Chair Schwary, and Chair Aspinall*

NAYS: None ABSTAINED: *Commissioner Novikov*

ABSENT: None

**COUNCIL ACTIONS** Robert D. Dalquest, Development Services Director  
February 10, 2020 and February 24, 2020

*Development Services Director Dalquest* reported there was no Council action related to the Planning Commission at the February 10, 2020 City Council meeting.

On February 24, 2020 Council approved the Starbuck's project by a 3 – 2 vote.

**FUTURE AGENDA ITEMS** Mike Poland, Contract Planning Manager

*Contract Planning Manager Poland* discussed upcoming items to be considered by the Planning Commission including a proposed amendment to extend the length of time for the Development Agreement on Enclave at Upland specific plan; a Condition Use Permit for a proposed daycare within the existing building behind the 7-Eleven on Foothill Boulevard at Campus Avenue; a Conditional Use Permit for a Chick-fil-a Restaurant along with a drive-thru

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at the Mountain Green Shopping Center, and potentially a draft ordinance related to ADU regulations.

**ORAL COMMUNICATIONS**

*Chair Aspinall* stated this is the time for any citizen to comment on any items that are not listed on the agenda under "Public Hearings" but within the Planning Commission's purview. Anyone wishing to address the Planning Commission should submit a speaker card to the Planning Secretary prior to speaking. The speakers are requested to keep their comments to five (5) minutes. The use of visual aids will be included in the time limit. Under the provisions of the Brown Act, the Planning Commission is prohibited from acting on items not listed on the agenda.

*Roger Stephenson*, LaVerne, spoke in support of denying the recommendation for the Site Plan No. 19-09 and Design Review No. 19-17 noting the size of the operation and van trips are grossly understated; indicated there is insufficient automobile parking for the vans and personal vehicles; addressed impacts from the number of van trips; felt that zoning has not been addressed correctly and noted inconsistencies within the documents.

Steve Bierbaum, Upland, urged the Commission to indicate in the agenda whether or not cases are appealable; reported submitting a Challenge to Public Hearings and Environmental Determinations made at the Joint Special Meeting of the Planning Commission and Airport Land Use Committee on February 12, 2020; noted an EIR must be prepared; indicated there were documents missing in the Planning Commission Agenda Packet and expressed concerns with transparency, indicating he addressed this on February 12, 2020; and noted concerns with using Upland Rock as a baseline for Kimley Horn's analysis.

*Tim Nguyen*, Frontier, discussed community workshops and surveys; noted they have made changes to their proposed project and urged the Planning Commission to vote "No" on the resolution to let the City Council know the Commission supports high-quality housing, economic growth and community engagement.

Noting there were no other members of the public wishing to address the Commission, *Chair Aspinall* closed oral communications.

*Vice Chair Schwary* asked Deputy Attorney Shah to clarify the appealable action listed in the agenda for the public's knowledge.

In response to *Vice Chair Schwary's* inquiry regarding appealable items, *Deputy City Attorney Shah* reported an item is appealable once a decision is final. In stating whether a Council hearing is required, a no in the chart indicates the Commission's determination is final, in which the item is appealable. A yes in the chart, indicates the Commission is a recommending body and the item is not appealable until the City Council makes a final determination.

*Development Services Director Dalquest* clarified within the agenda, the title and recommendation section also indicates whether the Planning Commission is making a recommendation to City Council.

*Vice Chair Schwary* clarified the meeting on February 12, 2020, there was only one (1) appealable action which was the Airport Land Use Determination and the other four (4) items were not appealable since they were recommendations.

**PUBLIC HEARINGS**

- 1. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 19-0002 TO ESTABLISH A NEW RESTAURANT AND BANQUET HALL WITH ANCILLARY LIVE ENTERTAINMENT, OUTDOOR PATIO SEATING FOR DINING AND HOOKAH, AND TO ALLOW THE SALE OF BEER AND WINE (TYPE 41 LICENSE).**

Project Location: 345 W. Foothill Boulevard. APN: 1045-571-37.

STAFF:	Jacqueline Hong, Assistant Planner
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APPLICANT:	Alaaldin Almuzian 1651 Via Galicia Street Corona, CA
RECOMMENDATION:	That the Planning Commission:  1. Receive staff's presentation; and  2. Hold a public hearing and receive testimony from the public; and  3. Move to adopt a Resolution of the Planning Commission of the City of Upland approving Conditional Use Permit No.19-0002.
COUNCIL HEARING REQUIRED:	No
APPEAL PERIOD:	10 days, ending March 9, 2020

*Commissioner Anderson* announced her residence is within a 500-1,000 feet "grey area" of the proposed project site, recused herself from hearing the item and departed the Chambers.

*Assistant Planner Jacqueline Hong* presented details of the staff report addressing location, description of the project, surrounding uses, zoning, operating hours, site plan, floorplan, review by the Technical Review Committee and the Upland Police Department, CEQA exemption and staff recommendation. She made corrections to the wording of Condition No. 40.22, "The applicant shall not engage in or permit the smoking of tobacco products in enclosed spaces of employment, in accordance with Labor Code Section 6404.5" and reported hookah is allowed in the patio, only.

*Vice Chair Schwary* inquired as to whether no tobacco pertains to outside and whether other forms of tobacco other than hookah will be permitted outside.

In response to *Vice Chair Schwary's* inquiry, *Planning Manager Poland* responded that it would be up to the owner as well as whether food will be served outside.

*Commissioner Brouse* inquired as to what hookah is.

In response to *Commissioner Brouse's* inquiry, *Assistant Planner Hong* responded that she would defer to the applicant.

*Chair Aspinall* opened the Public Hearing and invited the applicant to the podium.

*Omar Almuzian*, applicant's son, described hookah and reported the restaurant will serve Iraqi food, which is a mixture of Persian and Indian food; reported choosing Upland for its strategic location; addressed enforcement of drinking and smoking regulations; identified the location of the banquet hall and discussed renovations to the interior of the building and the projected opening date.

There being no other speakers, *Chair Aspinall* closed the public hearing.

*Assistant Planner Hong* discussed *Mr. Almuzian's* efforts in working closely with staff on this project and noted the upstairs of the building can only be used as an office area, due to ADA accessibility and reported on another hookah restaurants in the City.

Members of the Commission commented positively on the project.

Moved by *Vice Chair Schwary*, to adopt a Resolution of the Planning Commission of the City of Upland approving Conditional Use Permit No.19-0002 with the amended Condition of Approval No. 40.22, as discussed.

The motion was seconded by *Commissioner Novikov*.

The motion carried by the following vote (5 – 0 – 1):

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AYES: Commissioners Brouse, Novikov, Walker, Vice Chair Schwary, and Chair Aspinall

NAYS: None ABSTAINED: Anderson

ABSENT: None

*Commissioner Anderson* returned to the Chambers and took her place on the dais.

**BUSINESS ITEMS**

1. Adoption of a resolution with findings in support of the Planning Commission's recommendation to the City Council regarding Site Plan No. 19-09 and Design Review No. 19-17 for the Bridge Point Upland Project.

*Commissioner Novikov* announced he was unable to attend the meeting of February 12, 2020 due to work obligations, but he was able to review all of the materials including the audio and is prepared to review the item.

*Deputy City Attorney Shah* reported the item tonight is a review of the site plan item; noting there was action taken that was different than the staff recommendations and staff prepared a resolution reflecting the action from the previous meeting and the original resolution; and clarified the Commission is not reviewing any of the other items related to this project.

*Chair Aspinall* clarified the item they were considering was identified as "Attachment A" of the materials and asked for clarification on the vote.

In response to *Chair Aspinall's* inquiry, *Deputy City Attorney Shah* responded this is a new vote and is not taking away the previous vote. She further clarified the Commission is voting on which resolution they are adopting and recommending to City Council.

*Commissioner Brouse* referenced his vote on the Site Review Plan No. 19-09 and Design Review No. 19-17; noted he made an error and requested the record show that he is in favor and support of this project, the revenues, jobs and benefits it will bring to the City.

*Vice Chair Schwary* announced that after reviewing numerous emails regarding the matter and reviewing it further, he is more in favor, now, of the project, than he was in the previous meeting.

*Commissioner Anderson* stated she is supportive of the project and asked if the Commission may vote to consider the original resolution recommending approval.

*Deputy City Attorney Shah* noted that the Planning Commission may adopt either resolution at this time, whether to deny or approve staff recommendations based on the findings or can direct staff to draft a new resolution; she also indicated the original staff report and resolution are included in the packet as "Attachment B"; and advised the Commission that regardless of their vote this evening, each item of the project will be considered by the City Council.

Moved by *Commissioner Anderson*, to adopt a Resolution of the Planning Commission of the City of Upland recommending City Council approval for the Site Plan No. 19-09 and Design Review No. 19-17 for the Bridge Point Upland Project.

The motion was seconded by *Chair Aspinall*.

*Chair Aspinall* asked *Deputy City Attorney Shah* to clarify the motion before the Commission votes.

In response to *Chair Aspinall's* request, *Deputy City Attorney Shah* clarified the motion is to recommend that the City Council approve the resolution for the Site Plan; noting the City Council would be the final body.

The motion carried by the following vote (4 – 2):

AYES: Commissioners Anderson, Brouse, Vice Chair Schwary, and Chair Aspinall

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NAYS: Commissioners Novikov and Walker ABSTAINED: None

ABSENT: None

*Chair Aspinall* indicated there is no public comment.

There was an outburst from the audience in which *Mr. Bierbaum* approached the lectern shouting his discontent with the Commission's action and used profane language at the Planning Commission.

Vice Chair Schwary addressed *Mr. Bierbaum* indicating this is not the time or the place.

*Chair Aspinall* reiterated there is no public comment for this item and asked *Mr. Bierbaum* to leave. *Mr. Bierbaum* refused to leave and continued shouting at the Planning Commission. As Staff began to call the police, *Mr. Bierbaum* left the building.

2. Resolution recommending that the City Council deny Specific Plan No. 18-02, General Plan Amendment No. 18-04, Zone Change No. 18-04, Tentative Tract No. 20245 (TT 18-03), Site Plan No. 18-10, Design Review No. 18-14, and Environmental Assessment Review No. 0070 regarding the Villa Serena Specific Plan Project located on the north side of 15th Street, approximately 0.25 miles east of Campus Avenue.

*Commissioner Anderson* reported she was absent at the original meeting but reviewed the records of the meeting including the audio and is prepared to participate in this item.

*Deputy City Attorney Shah* noted recommendations from the Planning Commission at the original hearing were to recommend denial of the staff recommendation. Accordingly, staff prepared a new resolution reflecting the action at the previous meeting; advising the Commission can vote to recommend approval, denial or direct staff to prepare a revised draft resolution similar to the previous item.

*Chair Aspinall* asked for clarification as to who is able to vote.

In response to *Chair Aspinall's* inquiry, *Deputy City Attorney Shah* replied that all of the Commissioners are able to vote on this item.

Moved by Vice Chair Schwary to adopt a Resolution recommending that the City Council approve Specific Plan No. 18-02, General Plan Amendment No. 18-04, Zone Change No. 18-04, Tentative Tract No. 20245 (TT 18-03), Site Plan No. 18-10, Design Review No. 18-14, and Environmental Assessment Review No. 0070 regarding the Villa Serena Specific Plan Project located on the north side of 15th Street, approximately 0.25 miles east of Campus Avenue.

*Deputy City Attorney Shah* clarified that the motion at the previous hearing was to recommend denial and sought clarification whether the motion is for approval of the project or approval of the resolution recommending denial.

*Vice Chair Schwary* withdrew his motion.

Moved by *Commissioner Anderson*, to adopt a Resolution recommending that the City Council deny the Mitigated Negative Declaration for Specific Plan No. 18-02, General Plan Amendment No. 18-04, Zone Change No. 18-04, Tentative Tract No. 20245 (TT 18-03), Site Plan No. 18-10, Design Review No. 18-14 for a residential specific plan for a gated residential community that consists of 65 single-family detached residential units at a density of 7.1 dwelling units per acre and on-site active and passive recreational amenities to be provided within the common area open space on an existing 9.2-acre portion of the 15th Street flood control detention basin with modifications to the remainder detention basin.

The motion was seconded by *Commissioner Brouse*.

*Chair Aspinall* asked for clarification on the motion.

*Deputy City Attorney Shah* clarified that a yes vote is to recommend denial to the City Council,

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*Development Services Director Dalquest* noted that a no vote would deny the motion.  
*Deputy City Attorney Shah* further clarified the vote.

Discussion ensued regarding the vote, findings and future actions.

The motion failed by the following vote (3 – 3):

AYES: *Commissioners Anderson, Brouse and, Novikov*

NAYS: *Commissioner Walker, Vice Chair Schwary and Chair Aspinall* ABSTAINED: None

ABSENT: None

Discussion followed regarding clarification of the motion and efforts by Frontier to get input from the community and make appropriate changes.

*Deputy City Attorney Shah* reported the action now is not to take new information, but rather what has already been received in the record. She added that each resolution should be looked at, in isolation, without assumptions and inferences and identified various options available to the Commission

Discussion ensued regarding the possibility of opening 15<sup>th</sup> Street and specific changes made by the applicant.

Moved by *Commissioner Anderson*, to adopt a Resolution recommending that the City Council deny Specific Plan No. 18-02, General Plan Amendment No. 18-04, Zone Change No. 18-04, Tentative Tract No. 20245 (TT 18-03), Site Plan No. 18-10, Design Review No. 18-14 for a residential specific plan for a gated residential community that consists of 65 single-family detached residential units at a density of 7.1 dwelling units per acre and on-site active and passive recreational amenities to be provided within the common area open space on an existing 9.2-acre portion of the 15th Street flood control detention basin with modifications to the remainder detention basin, based on the project as designed/presented on January 22, 2020.

The motion was seconded by *Chair Aspinall*.

The carried by the following vote (4 – 2):

AYES: *Commissioners Anderson, Brouse, Novikov, and Chair Aspinall*

NAYS: *Commissioner Walker and Vice Chair Schwary* ABSTAINED: None

ABSENT: None

**COMMISSION COMMUNICATIONS**

*Commissioner Anderson* announced she will be attending an upcoming Lunch and Learn event in Riverside regarding housing and the California League of Cities Planning Academy.

*Commissioner Novikov* inquired as to the status of the vacancy on the Planning Commission's vacant. Staff reported interviews have taken place and the two top candidates may be on City Council's March 9<sup>th</sup> agenda.

*Commissioner Walker* asked about considering an ordinance that would require developments meeting a certain threshold to have an EIR prior to the Planning Commission's consideration. It was noted that is already a State law, under CEQA. *Commissioner Walker* inquired as to the opportunity to create individual thresholds that could identify the uniqueness and inquired as to the possibility of considering a noise ordinance relative to the train that goes by residential areas. Staff reported that designating a quiet zone might be an option but would need to review state law regarding public transportation that could restrict such actions.

*Chair Aspinall* asked for an update on activities at Campus Avenue by the CNC and it was noted the property owner is stockpiling dirt for a potential future project. *Chair Aspinall* discussed training with the City Attorney for new Planning Commissioners.

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**ADJOURNMENT**

There being no further business to come before the Planning Commission, *Chair Aspinall* adjourned the meeting at 8:08 P.M., to the regular meeting of the Planning Commission on March 25, 2020, at 6:30 P.M.

Respectfully submitted,



Robert D. Dalquest, Secretary  
Upland Planning Commission